

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 60th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By Chairman Diane Rice, on February 21, 2007 at 8:00 A.M., in Room 137 Capitol.

ROLL CALL

Members Present:

Rep. Diane Rice, Chairman (R)
Rep. Dave Gallik, Vice Chairman (D)
Rep. Ron Stoker, Vice Chairman (R)
Rep. Douglas Cordier (D)
Rep. Robyn Driscoll (D)
Rep. Bob Ebinger (D)
Rep. George Everett (R)
Rep. Julie French (D)
Rep. Rick Jore (C)
Rep. Krayton Kerns (R)
Rep. Roger Koopman (R)
Rep. Deborah Kottel (D)
Rep. Tom McGillvray (R)
Rep. Jesse O'Hara (R)
Rep. Ken Peterson (R)
Rep. Holly Raser (D)

Members Excused: None.

Members Absent: Rep. John Ward (R)

Staff Present: David Niss, Legislative Branch
Pam Schindler, Committee Secretary

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: HB 683, HB 695, HB 696, HB 698, HB 710, HB 340, HJ 38, 2/14/2007
Executive Action: HJ 38, HB 696, HB 698, HB 710, HB 683, HB 340, HB 549

HEARING ON HB 696

Opening Statement by Sponsor:

00:01:27 Rep. Jonathan Windy Boy (D), HD 32, opened the hearing on HB 696, Domestic violence misdemeanor probation pilot program.

Proponents' Testimony:

00:04:23 Pam Bucy, Assistant Attorney General, Department of Justice, State of Montana

00:06:38 Kelsen Young, Executive Director, Montana Coalition Against Domestic and Sexual Violence

EXHIBIT(juh39a01)

00:10:40 Nanette Gilbertson, Montana County Attorneys Association

Opponents' Testimony: None

Informational Testimony:

00:11:51 Cary Pribnow, Contracts Manager, Pre-Release Services, Department of Corrections, State of Montana

Questions from Committee Members and Responses:

00:14:07 Rep. Peterson

00:14:58 Rep. Windy Boy

00:19:10 Rep. Ebinger

00:19:43 Ms. Young

Closing by Sponsor:

00:20:31 Rep. Windy Boy

HEARING ON HB 698

Opening Statement by Sponsor:

00:21:39 Rep. Jonathon Windy Boy (D), HD 32, opened the hearing on HB 698, Revise laws for transition money for released inmates.

Proponents' Testimony:

00:24:43 Jeff Foley, Institutional Parole Officer, Montana State
Prison, State of Montana
00:27:47 Mike Mahoney, Warden, Montana State Prison, State of
Montana
00:30:53 Moe Wosepka, Director, Montana Catholic Conference

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

00:33:06 Rep. Koopman
00:33:30 Mr. Foley
00:36:18 Rep. Stoker
00:36:31 Mr. Foley
00:37:52 Rep. Peterson
00:38:23 Mr. Foley
00:40:18 Rep. McGillvray
00:40:47 Mr. Foley
00:40:52 Warden Mahoney
00:46:45 Rep. Gallik
00:48:28 Warden Mahoney
00:51:58 Rep. Kottel
00:52:10 Warden Mahoney

Closing by Sponsor:

00:56:24 Rep. Windy Boy
[EXHIBIT\(juh39a02\)](#)

HEARING ON HJ 38

Opening Statement by Sponsor:

00:58:34 Rep. Rick Jore (C), HD 12, opened the hearing on HJ 38,
Rescind all calls for convening a constitutional
convention.

Proponents' Testimony:

01:03:58 George Detweiler, Former Assistant Attorney General,
State of Idaho

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

01:14:54 Rep. Gallik
01:15:53 Rep. Jore
01:16:53 Mr. Detweiler
01:21:57 Rep. Cordier
01:27:41 Rep. McGillvray
01:27:54 Mr. Detweiler
01:29:46 Rep. Kottel
01:29:50 Mr. Detweiler
01:33:09 Rep. Koopman
01:33:14 Rep. Jore
01:33:43 Rep. Ebinger

Closing by Sponsor:

01:34:32 Rep. Jore

01:35:20 Break
01:46:25 Reconvene

HEARING ON HB 710

Opening Statement by Sponsor:

01:46:37 Rep. JP Pomnichowski (D), HD 63, opened the hearing on HB 710, Prohibit work release for second or subsequent DUI.

Proponents' Testimony:

01:51:50 Bill Muhs, self
01:58:31 Jenny Haubenreiser, Mothers Against Drunk Driving,
Bozeman

EXHIBIT(juh39a03)

02:00:22 Chris Menard, self

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

02:02:17 Rep. Everett
02:03:06 Rep. Pomnichowski
02:03:12 Rep. Rice

Closing by Sponsor:

02:03:58 Rep. Pomnichowski

HEARING ON HB 683

Opening Statement by Sponsor:

02:04:39 Rep. Michele Reinhart (D), HD 97, opened the hearing on
HB 683, Revise guardianship laws.

[EXHIBIT\(juh39a04\)](#)

Proponents' Testimony:

02:07:37 Beth Brenneman, Attorney, Montana Advocacy Program

[EXHIBIT\(juh39a05\)](#)

02:12:57 Wayne Sikorski, self

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor:

02:13:53 Rep. Reinhart

HEARING ON HB 695

Opening Statement by Sponsor:

02:15:06 Rep. Walter McNutt (R), HD 37, opened the hearing on HB
695, Require deduction of economic consumption from
medical malpractice award.

Proponents' Testimony:

02:17:06 Larry Riley, Attorney, Garlington, Lohn and Robinson,
Missoula

[EXHIBIT\(juh39a06\)](#)

02:24:42 Leo Berry, Utah Medical Insurance Corporation

[EXHIBIT\(juh39a07\)](#)

02:27:25 Mark Taylor, General Counsel, Montana Hospital
Association, Yellowstone Insurance Company

[EXHIBIT\(juh39a08\)](#)

02:32:27 Tom Ebzery, St. Vincent Healthcare, St. James
Healthcare, Holy Rosary Healthcare, Wheatland Memorial
Hospital

Opponents' Testimony:

02:33:33 Al Smith, Montana Trial Lawyers Association

02:47:55 Wayne Sikorski, self

Informational Testimony:

02:48:04 Erin McGowan-Fitchem, State Auditor's Office, State of
Montana

[EXHIBIT\(juh39a09\)](#)

Questions from Committee Members and Responses:

02:48:45 Rep. French

02:49:25 Ms. McGowan-Fitchem

02:51:12 Rep. Kottel

02:51:36 Mr. Berry

02:59:08 Rep. Gallik

03:00:29 Mr. Berry

03:02:33 Mr. Baker

03:05:41 Mr. Riley

Closing by Sponsor:

03:11:10 Rep. McNutt

EXECUTIVE ACTION ON HJ 38

03:12:58 **Motion:** Rep. Koopman moved that **HJ 38 DO PASS.**

Discussion:

03:13:42 Rep. Jore

[EXHIBIT\(juh39a10\)](#)

[EXHIBIT\(juh39a11\)](#)

03:16:13 Rep. Gallik

03:17:14 Rep. Rice

03:18:10 **Vote:** Motion that **HJ 38 DO PASS** carried 12-5 by roll
call vote with Reps. Gallik, French, Raser, Driscoll,
and Ebinger voting no. Rep. Ward voted by proxy.

EXECUTIVE ACTION ON HB 696

03:19:25 **Motion:** Rep. Stoker moved that **HB 696 DO PASS.**

Discussion:

03:19:46 Rep. Rice
03:20:12 Rep. Stoker
03:20:50 Rep. Peterson

03:21:30 **Vote:** Motion that **HB 696 DO PASS** failed 7-10 by roll call vote with Reps. Gallik, French, Raser, Cordier, Driscoll, Kottel, and Ebinger voting aye. Rep. Ward voted by proxy.

03:22:13 **Motion/Vote:** Rep. Stoker moved that **HB 696 BE TABLED AND THE VOTE REVERSED.** Motion carried unanimously by voice vote. Rep. Ward voted by proxy.

EXECUTIVE ACTION ON HB 698

03:22:34 **Motion:** Rep. Stoker moved that **HB 698 DO PASS.**

Discussion:

03:22:53 Rep. Koopman
03:24:05 Rep. Gallik
03:26:09 Rep. Peterson
03:27:11 Rep. McGillvray
03:28:07 Rep. Ebinger
03:28:50 Rep. Kottel

03:29:45 **Vote:** Motion that **HB 698 DO PASS** failed 8-9 by roll call vote with Reps. Gallik, French, Raser, Cordier, Driscoll, Peterson, Kottel, and Ebinger voting aye. Rep. Ward voted by proxy.

03:30:28 **Motion/Vote:** Rep. Stoker moved that **HB 698 BE TABLED AND THE VOTE REVERSED.** Motion carried unanimously by voice vote. Rep. Ward voted by proxy.

EXECUTIVE ACTION ON HB 710

03:30:51 **Motion:** Rep. Stoker moved that **HB 710 DO PASS.**

Discussion:

03:31:09 Rep. Gallik

03:31:55 **Vote:** Motion that **HB 710 DO PASS** carried 9-8 by roll call vote with Reps. Gallik, Everett, Koopman, Kerns, Peterson, O'Hara, Kottel, and Rice voting no. Rep. Ward voted by proxy.

EXECUTIVE ACTION ON HB 683

03:33:30 **Motion:** Rep. Stoker moved that **HB 683 DO PASS.**

03:33:39 **Motion/Vote:** Rep. Peterson moved that **HB 683 BE AMENDED** with amendment from hearing 2/21/07. Motion that **HB 683 BE AMENDED** carried unanimously by voice vote. Rep. Ward voted by proxy.

03:34:57 **Motion/Vote:** Rep. Stoker moved that **HB 683 DO PASS AS AMENDED.** Motion carried unanimously by voice vote. Rep. Ward voted by proxy.

EXECUTIVE ACTION ON HB 340

03:36:11 **Motion:** Rep. Stoker moved that **HB 340 DO PASS.**

Discussion:

03:36:25 Rep. Driscoll

03:36:59 **Motion:** Rep. Everett moved that **HB 340 BE AMENDED.**
[**EXHIBIT\(juh39a12\)**](#)

03:37:05 Rep. French

03:37:15 Rep. Koopman

[**EXHIBIT\(juh39a13\)**](#)

Discussion:

03:38:24 David Niss, Legislative Services

03:48:54 **Vote:** Motion that **HB 340 BE AMENDED** carried unanimously by roll call vote. Rep. Ward voted by proxy.

03:49:37 **Motion:** Rep. Stoker moved that **HB 340 DO PASS AS AMENDED.**

Discussion:

03:49:57 Rep. French
 03:50:06 Mike Weber, Richland County Attorney, President,
 Montana County Attorneys Association
 03:51:20 Rep. Gallik
 03:51:53 Rep. Rice
 03:52:32 Mr. Weber
 03:52:40 Rep. Koopman
 03:53:23 Gary Marbut, Montana Shooting Sports Association

03:54:06 **Motion:** Rep. Gallik moved that **HB 340 BE AMENDED with a CONCEPTUAL AMENDMENT to REMOVE SECTION 2.**

Discussion:

03:54:58 Rep. Gallik
 03:55:45 **Vote:** Motion that **HB 340 BE AMENDED** failed 7-10 by roll call vote with Reps. Gallik, French, Raser, Cordier, Driscoll, McGillvray, and Ebinger voting aye. Rep. Ward voted by proxy.
 03:56:53 **Motion:** Rep. French moved that **HB 340 BE AMENDED with a CONCEPTUAL AMENDMENT for PAGE 1, LINE 12, "...AND BEYOND QUESTION...."**.
 03:57:23 **Vote:** Motion that **HB 340 BE AMENDED** failed 8-9 by roll call vote with Reps. Gallik, French, Raser, Cordier, Driscoll, Peterson, Kottel, and Ebinger voting aye. Rep. Ward voted by proxy vote.
 03:58:11 **Vote:** Motion that **HB 340 DO PASS AS AMENDED** carried 11-2 by roll call vote with Reps. Cordier and Driscoll voting no. Reps. Gallik, French, Raser, and Ebinger abstained from voting. Rep. Ward voted by proxy.

Discussion:

03:59:30 Rep. Gallik
 03:59:42 Rep. Ebinger
 04:00:14 Rep. Raser
 04:00:40 Rep. French

EXECUTIVE ACTION ON HB 549

04:01:08 **Motion:** Rep. McGillvray moved that **HB 549 DO PASS.**

04:01:17 **Motion:** Rep. McGillvray moved that **HB 549 BE AMENDED.**
EXHIBIT(juh39a14)

Discussion:

04:02:26 Rep. McGillvray

04:03:06 Mr. Niss

04:03:39 Rep. Kottel

04:04:25 Rep. Raser

04:05:17 Mr. Niss

04:07:13 Rep. Stoker

04:09:28 **Substitute/Motion:** Rep. McGillvray withdrew previous amendment and moved that **HB 549 BE AMENDED with PARAGRAPHS 2 and 4 only.**

04:10:11 Rep. French

04:10:45 **Vote:** Motion that **HB 549 BE AMENDED** carried 10-7 by voice vote with Reps. Gallik, Raser, Driscoll, Kottel, Jore, Ebinger, and Cordier voting no. Rep. Ward voted by proxy.

04:11:15 **Motion:** Rep. McGillvray moved that **HB 549 DO PASS AS AMENDED.**

04:11:21 **Motion:** Rep. Gallik moved that **HB 549 BE AMENDED with a CONCEPTUAL AMENDMENT for PAGE 2, LINE 29, STRIKE THE UNDERLINED SECTION, PAGE 6, LINES 5,6 STRIKE, ..."TO BE ADMINISTERED....".**

04:13:52 Rep. Rice

04:14:01 **Vote:** Motion that **HB 549 BE AMENDED** failed 7-10 by roll call vote with Reps. Gallik, French, Raser, Cordier, Driscoll, Kottel, and Ebinger voting aye. Rep. Ward voted by proxy.

04:14:48 **Vote:** Motion that **HB 549 DO PASS AS AMENDED** carried 10-7 by roll call vote with Reps. Gallik, French, Raser, Driscoll, Cordier, Kottel, and Ebinger voting no. Rep. Ward voted by proxy.

ADJOURNMENT

Adjournment: 12:16 P.M.

REP. DIANE RICE, Chairman

PAM SCHINDLER, Secretary

DR/ps

Additional Exhibits:

EXHIBIT ([juh39aad.pdf](#))